

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL WHITFIELD,

Petitioner,

v.

NETHANJAH BRUTENBACH,

Respondents.

Case No. 3:23-cv-00305-ART-CLB

ORDER

Petitioner Michael Whitfield, a *pro se* Nevada prisoner, has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). He submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit a complete IFP application.

On July 7, 2023, the Court instructed Petitioner to either pay the standard \$5.00 filing fee or file an IFP application. ECF No. 3. The Northern Nevada Correctional Center law library returned the Court’s order sent to the last institutional address Petitioner provided with a notation indicating that he is no longer at the institution and has been transferred to High Desert State Prison (“HDSP”). *See* Returned Mail NEF (ECF No. 4). The inmate search tool on the Nevada Department of Corrections’ (“NDOC”) website also reflected that Petitioner is now incarcerated at HDSP.

The Court instructed the Clerk of Court to send a one-time courtesy copy of the Court’s order and a blank form IFP application for incarcerated litigants along with instructions to Petitioner Michael Whitfield, identification number 1215111, at High Desert State Prison. ECF No. 5. The Court granted Petitioner an additional forty-five day extension to either pay the filing fee or file an IFP application. *Id.*

1 On October 24, 2023, Petitioner filed an incomplete IFP application. ECF
2 No. 7. Petitioner did not submit a financial certificate signed by an authorized
3 officer at the Nevada Department of Corrections. In addition, Petitioner has not
4 submitted a certified copy of his inmate trust account statement for the six-
5 month period preceding this habeas action.¹ On December 6, 2023, Petitioner
6 filed a notice of change of address. ECF No. 9.

7 The Court, *sua sponte*, will grant Petitioner a **final** 45-day extension from
8 the date of this order to either pay the \$5 filing fee or submit a complete IFP
9 application with all required documentation.

10 It is therefore ordered that the initial screening of the Petition for Writ of
11 Habeas Corpus (ECF No. 1-1) under the Rules Governing Section 2254 Cases is
12 deferred to until such time as he has fully complied with this order.

13 The Clerk of Court is instructed to send Petitioner a blank form IFP
14 application for incarcerated litigants along with instructions, and a copy of this
15 order to Petitioner Michael Whitfield.

16 It is further ordered that, within 45 days of the date of this order, Petitioner
17 must file an IFP application that includes a: (a) financial certificate signed by
18 Petitioner and an authorized prison official, (b) financial declaration and
19 acknowledgement signed by Petitioner, and (c) copy of Petitioner's inmate
20 account statement for the six-month period prior to filing. Alternatively,
21 Petitioner must pay the \$5 filing fee within 45 days of the date of this order. If
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24 ¹ Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees,
25 a \$5.00 filing fee is required to initiate a habeas action in a federal district court.
26 The Court may authorize an indigent prisoner to begin a habeas action without
27 paying the \$5 fee if he or she submits an IFP application on the approved form
28 and includes three specific documents: (a) the prisoner's financial declaration
and acknowledgement showing an inability to prepay fees and costs, (b) a
financial certificate signed by the prisoner and an authorized prison official, and
(c) a copy of the prisoner's account statement for the six-month period prior to
filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

1 Petitioner decides to pay the filing fee from his inmate account, he must arrange
2 to have a copy of this order attached to the check for the filing fee.

3 It is further ordered that Petitioner's failure to comply with this order within
4 45 days by either submitting a complete IFP application, or paying the filing fee
5 will result in the dismissal of this action without prejudice and without further
6 advance notice.

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8 DATED THIS 20th day December 2023.

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11 ANNE R. TRAUM
12 UNITED STATES DISTRICT JUDGE
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